

BACKGROUND CHECKS for STATE EMPLOYMENT

PURPOSE: To set minimum standards governing background checks for State employment.

SCOPE: This policy applies to all merit and non-merit agencies subject to the jurisdiction of the State Personnel Department. It is recommended that other governmental entities also adopt this policy.

POLICY STATEMENT: The State of Indiana is committed to providing the public with qualified staff who possess good character and standards. This policy will provide basic safeguards against employee dishonesty and assist in maintaining a safe work environment for employees, clients, and customers of state agencies.

DEFINITIONS:

"Background Checks" refers to all of the following checks: Employment verification, Educational verification, License verification, Tax payment check, Reference check, Past employment check, Criminal history check, Sex Offender Registry check, Court records check, Motor vehicle check, Credit history check, National criminal history database check. See Appendix A for general release of information form.

- *Employment verification:* ensuring that the applicant actually worked
 - all positions listed on the application/resume that qualify the individual for the position sought; and
 - all employment during a period of at least seven (7) years immediately preceding application.Verification should include dates of employment, reasons for leaving, and an explanation for any periods of unemployment.
- *Educational verification:* telephone contact or written verification to ensure that the applicant possesses all educational credentials on application/resume.
- *License verification:* confirmation that the applicant possesses all the licenses on application/resume or otherwise necessary for position and determining the disposition of any proceedings against the license
- *Tax payment check:* The Indiana Department of Revenue will provide information to state agencies as to whether an applicant is current in payment of state taxes.
- *Reference check:* contacting the references provided by the applicant.
- *Past employment check:* interviews with the applicant's past supervisors.
- *State Criminal history check:* The most basic check on arrest(s) or criminal conviction(s) is the state criminal history check provided by the Indiana State Police. This check is limited to Indiana criminal history and can only discover the data that has been provided by local law enforcement agencies. It is available online through Access Indiana. For especially sensitive positions, agencies may consider checking court records in every jurisdiction where the applicant has lived, worked, or attended school. State agencies

may also require applicants to secure and provide their state criminal history checks. Arrest(s) may be considered only if the charge(s) are still pending.

- *Sex Offender Registry.* The Criminal Justice Institute maintains and updates the Indiana Sex and Violent Offender Directory database, which is accessible on the Internet through Access Indiana, with information on persons convicted of certain sex and violent crimes.
- *Court records check:* checking civil and criminal court records in jurisdictions where the applicant has lived or worked to determine any criminal history or civil judgments.
- *Motor vehicle check:* BMV makes driving record information available online through Access Indiana to determine an applicant's driving record and status.
- *Credit history:* CAVEAT: Credit history check may be used only where there is a business necessity. The Fair Credit Reporting Act (FCRA) requires a separate written notice and authorization before a report from a consumer reporting agency can be procured. If the employer proposes to deny employment or otherwise adversely affect an employee based on any information contained in a consumer report, the employer must make adverse action disclosures, which include two steps:
 1. Before the adverse action is taken to not employ, the person must be provided a "Pre-Adverse Action Disclosure Statement" which includes:
 - a. A copy of the credit report, and
 - b. "Summary of your rights under the FCRA".
 2. After taking adverse action, the person must be provided an "Adverse Action Notice", which includes:
 - a. Name, address, and phone number of the Consumer Reporting Agency (CRA) supplying the report.
 - b. A statement that the consumer reporting agency did not make the decision to take the adverse action and is unable to provide the specific reasons why the adverse action was taken.
 - c. Notice that the person may dispute (with the consumer reporting agency) the accuracy or completeness of the information, and a right to an additional free credit report within sixty (60) days.

An employer may not discriminate against an applicant or employee because of bankruptcy nor can an employee be discharged for garnishment proceedings.

See forms attached to this policy or at <http://www.in.gov/icpr/webfile/formsdiv/pers.html>.

- *Federal Criminal History Records Information (CHRI) check:* a nationwide criminal history database, access to which is limited by federal and state statutes. Under current law, applicants may obtain information on themselves from this data source. Criminal justice agencies and gaming and horse racing regulators have access to this information for employment purposes. Employees or volunteers who have contact with children are also eligible for these nationwide checks. See procedure attached to this policy.

PROCEDURES & RESPONSIBILITIES:

1. Agencies shall develop a written policy specifying the level of background check for each type of position to be filled. This policy must cover all positions in the agency and shall be implemented in each agency by July 1, 2003. Those policies must include the following elements as appropriate for each agency:
 - a. All persons appointed to state positions shall have verified:
 - (1) All work experience listed on application/resume that qualify the individual for the position sought,
 - (2) All employment during a period of at least seven (7) years immediately preceding the date of application,
 - (3) All academic diplomas and degrees, and
 - (4) Any required licensure
 - b. All persons accepting conditional offers of employment for positions working directly with vulnerable populations shall be subject to the highest level of criminal history check available under the law, utilizing the federal and state Criminal History Records Information (CHRI) system. Positions falling into this category include, but are not limited to, direct care workers in state-operated facilities for children and facilities for vulnerable adult populations such as MR/DD, as well as those working with juveniles such as caseworkers in the Division of Family and Children – Family and Social Services Administration, and employees in juvenile facilities operated by the Department of Correction. All of these persons should be subject to the CHRI check, past employment, Sex and Violent Offender Registry, and any other checks the agency determines are appropriate. NOTE that CHRI checks can take several weeks; therefore, agencies may consider making provisional offer of employment subject to successful completion of the criminal history check.
 - c. All persons accepting conditional offers of employment for positions that authorize disbursements shall be subject to additional background checks commensurate with their responsibilities such as criminal history checks.
 - d. All persons accepting conditional offers of employment for Agency Head positions shall be subject to the following checks: (1) state criminal history check for employment purposes; (2) credit checks; (3) licensure checks; (4) verification of state tax payment; (5) motor vehicle record check; (6) Sex Offender Registry check. Each agency must review its policy to determine which of the above-defined checks are appropriate for other levels of management based on each manager's responsibilities.
2. Once policies are in place concerning background checks on future appointments, each agency should also determine which background checks will be applied to current employees and what action(s) may be taken based on the information received.
3. Copies of Agency policies should be provided to the State Personnel Department.
4. The State Personnel Department has revised the state application form to indicate what background check information has been verified.

5. The Department of Administration requires assurances in its QPA for temporary personnel that the backgrounds of those temporary personnel do not reveal relevant past criminality or dishonesty. Agencies should restrict temporary personnel's access to sensitive information commensurate with the assurances provided on the QPA. In addition, agencies should not utilize the services of contractual personnel who do not satisfy the agency's criteria for employment.

REFERENCES:

IC 4-13-2-14.7

IC 4-15-1.8-7

IC 4-15-2-16

IC 5-2-5

IC 12-24-3-2

31 IAC 2-6-3

Commercial Drivers' License Policy

EFFECTIVE: June 1, 2003

APPROVAL:

D. Sue Roberson, State Personnel Director

Date:_____

**CONTACTS & PROCEDURES
FOR
CERTAIN BACKGROUND CHECKS
May 2003**

Professional Licenses

Website for both IHPB and IPLA checks:

Indiana Health Professions Bureau (IHPB) <https://www.ai.org/weblookup/>

Indiana Professional Licensing Agency (IPLA) <https://www.ai.org/weblookup/>

Attorneys (317) 232-5861 or http://hostpub.courts.state.in.us/HostPublisher/rollatty/roa1_inp.jsp

Teachers (317) 232-9010

Verification of State Tax Payment

A verification of state tax payment check may be completed on a person who is provided a conditional offer of employment by requesting it from the Indiana Department of Revenue (IDOR).

An Appointing Authority or designee (must be a bargaining unit exempt position) may officially request this information. The request must be on Agency letterhead paper and combined with the completed Authorization to Release Information form to:

Disclosure Officer/Administrator
Indiana Department of Revenue
10 N. Senate Avenue
Indiana Government Center North
Room N248
Indianapolis, IN 46204

IDOR will be responding to these requests to the Appointing Authority or designee with an answer of "good standing" or "not in good standing".

Bureau of Motor Vehicles Driver's License Records Search

The Bureau of Motor Vehicles houses a great deal of pertinent information for companies and individuals all around Indiana. This service is available for accessIndiana subscribers. Information about subscribing to accessIndiana may be found at <http://www.in.gov/ai/sub/subscribe/index.html>.

AccessIndiana subscribers can access the BMV Driver's License Records Search at http://www.in.gov/ai/help/bmv_license.html. Once the reason for your search is specified under the Driver's Privacy Protection Act (DPPA), records can be searched using the following criteria:

- License number, or;
- First name, last name, middle initial and date of birth, or;
- Social Security Number.

Sex and Violent Offender Registry Checks

The Indiana Sex and Violent Offender Registry is available on line at the Indiana Criminal Justice Institutes' website, http://www.state.in.us/serv/cji_sor.

Be sure to perform the query on applicants from **all four sections**:

1. Records submitted to the Indiana Criminal Justice Institute
2. Records of the Indiana Department of Correction
3. Records of the Indiana Prosecuting Attorneys Council
4. Records of the Indiana State Police.

Nationwide Criminal Background Checks

CAVEAT: Under current law, Federal Criminal History Records Information checks can only be required for certain positions as stated above in the Definition section of this policy.

The Indiana State Police (ISP) will provide fingerprint cards for federal Criminal History Background Checks for persons who are provided a conditional offer of employment by a state agency in certain positions as specified by law. The person will be expected to pay for the background check; for current pricing contact the Records Division of the Indiana State Police.

These individuals must be provided:

1. An official FBI applicant fingerprint card.
2. The Appointing Authority's name and address to ensure that the FBI Nationwide Criminal history check is provided to the agency and instructions to ensure that the Appointing Authority's name and address is placed on the fingerprint card at the time of submission to the FBI.
3. Instructions that after fingerprinting, the card should be mailed with payment to the Indiana State Police, IGCN – Room 302, 100 N. Senate Avenue, Indianapolis, IN 46204 for processing.

Authorization to Release Information

I, (Please Print Clearly) _____, hereby authorize any person or entity, public or private, having any information concerning my background, including but not limited to, credit records, criminal law violations, education records, driving record, state tax records, employment records, professional licenses and disciplinary matters to release such information to a state agency. This information is to be used for possible employment with the State of Indiana.

I understand that if the State requests a national check of the Criminal History Records Information Database, I have the following rights:

- to obtain a copy of any background check report; and
- to challenge the accuracy and completeness of any information contained in any such report and obtain prompt determination as to the validity of such challenge before a final determination is made by the State of Indiana.

I understand that if the State has a business necessity to request a credit history check, I will be provided a separate notice of my rights under the Federal Credit Reporting Act and a separate release form to sign.

I further authorize, intend and understand that this release of information shall continue and remain in full force and effect at all times during my employment with the State and may be used at any time during my employment with the State.

Signature

Date

Male/Female
(Circle One)

Street Address

Date of Birth

City, State, Zip Code

Telephone Number

Driver's License No. and State

Driver's License Expiration Date

Other Name(s) Used

Social Security Number

The State is requesting your SSN under authority IC 4-1-8 to accomplish statutory purposes. Disclosure is mandatory and this form will not be processed without it.

Fair Credit Reporting Act (FCRA) Disclosure and Release Form

Disclosure

Be advised that certain positions within the **Indiana State Government** require a credit history check as part of the employment background process. These checks will be performed in accordance with the Fair Credit Reporting Act. In accordance with the act, be advised of the following:

A person who is conditionally offered employment must give voluntary written authorization in order for the credit history report to be generated.

If a decision is made to not employ because of the report, the following must occur:

1. Before the adverse action is taken to not employ, the person must be provided a "Pre-Adverse Action Disclosure Statement" which includes:
 - a. A copy of the credit report, and
 - b. "Summary of your rights under the FCRA".
2. After taking adverse action, the person must be provided an "Adverse Action Notice", which includes:
 - a. Name, address, and phone number of the Consumer Reporting Agency (CRA) supplying the report.
 - b. A statement that the consumer reporting agency did not make the decision to take the adverse action and is unable to provide the specific reasons why the adverse action was taken.
 - c. Notice that the person may dispute (with the consumer reporting agency) the accuracy or completeness of the information, and a right to an additional free credit report within sixty (60) days.

The State of Indiana does not waive any immunities it might possess.

Release

The Fair Credit Reporting Act (FCRA) allows individuals and institutions with a true business need to gain access to the credit histories of other individuals with the individual's permission.

By signing this release, I _____ hereby give permission to the State of Indiana to:

- ☐ Investigate my credit history for purposes of employment with the State of Indiana.

I have read and understood the above notice and release, and I sign this release voluntarily, without coercion or duress from any individual or party.

Employee Signature

Date

Employee Name, printed

This form is to be used ONLY when a credit history check is required by business necessity.

A Summary of Your Rights under the Fair Credit Reporting Act

The federal Fair Credit Reporting Act (FCRA) is designed to promote accuracy, fairness, and privacy of information in the files of every "consumer reporting agency" (CRA). Most CRAs are credit bureaus that gather and sell information about you -- such as if you pay your bills on time or have filed bankruptcy -- to creditors, employers, landlords, and other businesses. You can find the complete text of the FCRA, 15 U.S.C. 1681-1681u, at the Federal Trade Commission's web site (<http://www.ftc.gov>). The FCRA gives you specific rights, as outlined below. You may have additional rights under state law. You may contact a state or local consumer protection agency or a state attorney general to learn those rights.

- **You must be told if information in your file has been used against you.** Anyone who uses information from a CRA to take action against you -- such as denying an application for credit, insurance, or employment -- must tell you, and give you the name, address, and phone number of the CRA that provided the consumer report.
- **You can find out what is in your file.** At your request, a CRA must give you the information in your file, and a list of everyone who has requested it recently. There is no charge for the report if a person has taken action against you because of information supplied by the CRA, if you request the report within 60 days of receiving notice of the action. You also are entitled to one free report every twelve months upon request if you certify that (1) you are unemployed and plan to seek employment within 60 days, (2) you are on welfare, or (3) your report is inaccurate due to fraud. Otherwise, a CRA may charge you up to eight dollars.
- **You can dispute inaccurate information with the CRA.** If you tell a CRA that your file contains inaccurate information, the CRA must investigate the items (usually within 30 days) by presenting to its information source all relevant evidence you submit, unless your dispute is frivolous. The source must review your evidence and report its findings to the CRA. (The source also must advise national CRAs -- to which it has provided the data -- of any error.) The CRA must give you a written report of the investigation, and a copy of your report if the investigation results in any change. If the CRA's investigation does not resolve the dispute, you may add a brief statement to your file. The CRA must normally include a summary of your statement in future reports. If an item is deleted or a dispute statement is filed, you may ask that anyone who has recently received your report be notified of the change.
- **Inaccurate information must be corrected or deleted.** A CRA must remove or correct inaccurate or unverified information from its files, usually within 30 days after you dispute it. **However, the CRA is not required to remove accurate data from your file unless it is outdated (as described below) or cannot be verified.** If your dispute results in any change to your report, the CRA cannot reinsert into your file a disputed item unless the information source verifies its accuracy and completeness. In addition, the CRA must give you a written notice telling you it has reinserted the item. The notice must include the name, address and phone number of the information source.
- **You can dispute inaccurate items with the source of the information.** If you tell anyone -- such as a creditor who reports to a CRA -- that you dispute an item, they may not then report the information to a CRA without including a notice of your dispute. In addition, once you've notified the source of the error in writing, it may not continue to report the information if it is, in fact, an error.
- **Outdated information may not be reported.** In most cases, a CRA may not report negative information that is more than seven years old; ten years for bankruptcies.
- **Access to your file is limited.** A CRA may provide information about you only to people with a need recognized by the FCRA -- usually to consider an application with a creditor, insurer, employer, landlord, or other business.
- **Your consent is required for reports that are provided to employers, or reports that contain medical information.** A CRA may not give out information about you to your employer, or prospective employer, without your written consent. A CRA may not report medical information about you to creditors, insurers, or employers without your permission.
- **You may choose to exclude your name from CRA lists for unsolicited credit and insurance offers.** Creditors and insurers may use file information as the basis for sending you unsolicited offers of credit or insurance. Such offers must include a toll-free phone number for you to call if you want your name and address removed from future lists. If you call, you must be kept off the lists for two years. If you request, complete, and return the CRA form provided for this purpose, you must be taken off the lists indefinitely.
- **You may seek damages from violators.** If a CRA, a user or (in some cases) a provider of CRA data, violates the FCRA, you may sue them in state or federal court. **The State of Indiana does not waive any immunities it might possess.**